

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 276
Committee Substitute Favorable 4/19/99
Senate Insurance Committee Substitute Adopted 7/1/99

Short Title: Omnibus ESC Changes.

(Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED
AN ACT MAKING VARIOUS CHANGES TO THE EMPLOYMENT SECURITY
LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-9(a) is amended by adding two new subdivisions to read:

"(10) Employers electing to do so may pay their quarterly tax contributions by electronic funds transfer. When an electronic funds transfer cannot be completed due to insufficient funds or the nonexistence of an account of the transferor, the Commission shall assess a penalty equal to ten percent (10%) of the amount of the transfer, subject to a minimum of one dollar (\$1.00) and a maximum of one thousand dollars (\$1,000). The Commission may waive this penalty for good cause shown. As used in this section, the term 'electronic funds transfer' means a transfer of funds initiated by using an electronic terminal, a telephone, a computer, or magnetic tape to instruct or authorize a financial institution or its agent to credit or debit an account.

(11) The Commission may establish policies to allow taxes to be payable under certain conditions by credit card. A condition of payment by

1 credit card is receipt by the Commission of the full amount of taxes,
2 penalties, and interest due. The Commission shall require an employer
3 who pays by credit card to include an amount equal to any fee charged
4 the Commission for the use of the card. A payment of taxes that is
5 made by credit card and is not honored by the card issuer does not
6 relieve the employer of the obligation to pay the taxes."

7 Section 2. G.S. 96-9(a)(7) reads as rewritten:

8 "(7) Effective with the quarter ending September 30, ~~1992,~~ 1999, every
9 employer with ~~250-~~100 or more employees, and every person or
10 organization that, as agent, reports wages on a total of ~~250-~~100 or more
11 employees on behalf of one or more subject employers, shall file that
12 portion of the "Employer's Quarterly Tax and Wage Report" that
13 contains the name, social security number, and gross wages of each
14 individual in employment on magnetic tapes or diskettes in a format
15 prescribed by the Commission.

16 For failure of an employer to comply with this subdivision, there
17 shall be added to the amount required to be shown as tax in the reports a
18 penalty of twenty-five dollars (\$25.00). For failure of an agent to
19 comply with this subdivision, the Commission may deny the agent the
20 right to report wages and file reports for the employer for whom the
21 agent filed an improper report for a period of one year following the
22 calendar quarter in which that agent filed the improper report. The
23 Commission may reduce or waive a penalty for good cause shown."

24 Section 3. G.S. 96-9(c)(4)b. reads as rewritten:

25 "b. Notwithstanding any other provisions of this section, if the
26 successor employer was an employer subject to this Chapter prior
27 to the date of acquisition of the business, ~~his-~~the successor's rate
28 of contribution for the period from ~~such-that~~ that date to the end of the
29 then current contribution year shall be the same as ~~his-~~the
30 successor's rate in effect on the date of ~~such-~~the acquisition. If the
31 successor was not an employer prior to the date of the acquisition
32 of the ~~business-~~business, the successor shall be assigned a
33 standard beginning rate of contribution set forth in G.S. 96-
34 9(b)(1) for the remainder of the year in which ~~he-~~the successor
35 acquired the business of the predecessor; however, if ~~such-~~the
36 successor makes application for the transfer of the account within
37 60 days after notification by the Commission of ~~his-~~the right to
38 do so and the account is transferred, or meets the requirements
39 for mandatory transfer, ~~he-~~the successor shall be assigned for the
40 remainder of ~~such-~~the year the rate applicable to the predecessor
41 employer or employers on the date of acquisition of the business,
42 provided as long as there was only one predecessor or if more than
43 one and or, if more than one, the predecessors had identical rates.

1 In the event the rates of the predecessor were not identical, the
2 rate of the successor shall be the highest rate applicable to any of
3 the predecessor employers on the date of acquisition of the
4 business.

5 Irrespective of any other provisions of this Chapter, when an
6 account is transferred in its entirety by an employer to a
7 successor, the transferring employer shall thereafter pay the
8 standard beginning rate of contributions ~~of two and seven tenths~~
9 ~~percent (2.7%) set forth in G.S. 96-9(b)(1)~~ and shall continue to
10 pay at ~~such rate until he~~ that rate until the transferring employer
11 qualifies for a reduction, reacquires the account he transferred or
12 acquires the experience rating account of another employer, or is
13 subject to an increase in rate under the conditions prescribed in
14 G.S. 96-9(b)(2) and (3). ~~However, when an account is transferred in~~
15 ~~its entirety by an employer to a successor on or after January 1, 1987,~~
16 ~~the transferring employer shall thereafter pay the standard beginning~~
17 ~~rate of contributions of two and twenty five hundredths percent~~
18 ~~(2.25%) and shall continue to pay at such rate until he qualifies for a~~
19 ~~reduction, reacquires the account he transferred or acquires the~~
20 ~~experience rating account of another employer, or is subject to an~~
21 ~~increase in rate under the conditions prescribed in G.S. 96-9(b)(2) and~~
22 ~~(3)."~~

23 Section 4. G.S. 96-12.01(b) reads as rewritten:

24 "(b) Effect of State Law Provisions Relating to Regular Benefits on Claims for, and
25 for Payment of, Extended Benefits. – Except when the result would be inconsistent with
26 ~~G.S. 96-12 or the other provisions of this section,~~ section and in matters of eligibility
27 determination, as provided in the regulations of the Commission, the provisions of this
28 Chapter which apply to claims for, or the payment of, regular benefits shall apply to
29 claims for, and the payment of, extended benefits."

30 Section 5. G.S. 96-12.01(c) is amended by adding a new subdivision to read:

31 "(5) An individual shall not be eligible for extended compensation unless the
32 individual had 20 weeks of full-time insured employment, or the
33 equivalent in insured wages, as determined by a calculation of base
34 period wages based upon total hours worked during each quarter of the
35 base period and the hourly wage rate for each quarter of the base period.
36 For the purposes of this paragraph, the equivalent in insured wages shall
37 be earnings covered by the State law for compensation purposes which
38 exceed 40 times the individual's most recent weekly benefit amount or
39 one and one-half times the individual's insured wages in that calendar
40 quarter of the base period in which the individual's insured wages were
41 the highest."

42 Section 6. G.S. 96-15(a) reads as rewritten:

1 "(a) Filing. – Claims for benefits shall be made in accordance with such regulations
2 as the Commission may prescribe. Employers may file claims for employees through the
3 use of automation in the case of partial unemployment. Each employing unit shall post
4 and maintain in places readily accessible to individuals performing services for it printed
5 statements, concerning benefit rights, claims for benefits, and such other matters relating
6 to the administration of this Chapter as the Commission may direct. Each employing unit
7 shall supply to such individuals copies of such printed statements or other materials
8 relating to claims for benefits as the Commission may direct. Such printed statements
9 and other materials shall be supplied by the Commission to each employing unit without
10 cost to the employing unit."

11 Section 7. G.S. 96-15(b)(2) reads as rewritten:

12 "(2) Adjudication. – When a protest is made by the claimant to the initial or
13 monetary determination, or a question or issue is raised or presented as
14 to the eligibility of a claimant under G.S. 96-13, or whether any
15 disqualification should be imposed under G.S. 96-14, or benefits denied
16 or adjusted pursuant to G.S. 96-18, the matter shall be referred to an
17 adjudicator. The adjudicator may consider any matter, document or
18 statement deemed to be pertinent to the issues, including telephone
19 conversations, and after such consideration shall render a conclusion as
20 to the claimant's benefit entitlements. The adjudicator shall notify the
21 claimant and all other interested parties of the conclusion reached. The
22 conclusion of the adjudicator shall be deemed the final decision of the
23 Commission unless within ~~10 working~~ 15 days after the date of
24 notification or mailing of the conclusion, whichever is earlier, a written
25 appeal is filed pursuant to such regulations as the Commission may
26 adopt. The Commission shall be deemed an interested party for such
27 purposes and may remove to itself or transfer to an appeals referee the
28 proceedings involving any claim pending before an adjudicator.

29 Provided, any interested employer shall be allowed ~~10 working~~ 15
30 days from the earlier of mailing or delivery of the notice of the filing of
31 a claim against the employer's account to protest the claim and have the
32 claim referred to an adjudicator for a decision on the question or issue
33 raised. Provided further, no question or issue may be raised or
34 presented by the Commission as to the eligibility of a claimant under
35 G.S. 96-13, or whether any disqualification should be imposed under
36 G.S. 96-14, after ~~20 working~~ 45 days from the first day of the first week
37 after the question or issue occurs with respect to which week an
38 individual filed a claim for benefits. None of the provisions of this
39 subsection shall have the force and effect nor shall the same be
40 construed or interested as repealing any of the provisions of G.S. 96-
41 18."

42 Section 8. G.S. 105-259(b)(9a) reads as rewritten:

1 "(9a) To furnish information to the Employment Security Commission to the
2 extent required for its NC WORKS study of the working poor pursuant
3 to G.S. 108A-29(r). The Employment Security Commission shall use
4 information furnished to it under this subdivision only in a
5 nonidentifying form for statistical and analytical purposes related to its
6 NC WORKS study. The information that may be furnished under this
7 subdivision is the following with respect to individual income
8 taxpayers, as shown on the North Carolina income tax forms:

- 9 a. Name, social security number, spouse's name, spouse's social
10 security number, and county of residence.
- 11 b. Filing status and federal personal exemptions.
- 12 c. Federal taxable income, additions to federal taxable income, and
13 total of federal taxable income plus additional income.
- 14 d. Income while a North Carolina resident, total income from North
15 Carolina sources while a nonresident, and total income from all
16 sources.
- 17 e. Exemption for children, nonresidents' and part-year residents'
18 exemption for children, and credit for children.
- 19 f. Expenses for child and dependent care, portion of expenses paid
20 while a resident of North Carolina, portion of expenses paid
21 while a resident of North Carolina that was incurred for
22 dependents who were under the age of seven and dependents
23 who were physically or mentally incapable of caring for
24 themselves, credit for child and dependent care expenses, other
25 qualifying expenses, credit for other qualifying expenses, total
26 credit for child and dependent care expenses."

27 Section 9. G.S. 108A-29(q) reads as rewritten:

28 "(q) Each county Employment Security Commission local or branch office shall
29 ~~organize a Job Service Employer Committee, based on the membership makeup of the Job~~
30 ~~Service Employer Committees in existence at the time this act becomes law. Committee.~~ The
31 Chairman of the Employment Security Commission shall appoint the Job Service
32 Employer Committee members, each of whom shall serve two-year terms, from persons
33 nominated by the local Job Service Employer Committee. The Employment Security
34 Commission shall organize a State Job Service Employer Committee consisting of eight
35 members who shall serve two-year terms. The Chairman of the Employment Security
36 Commission shall appoint the State Job Service Employer Committee members after
37 consultation with the Governor. The Employment Security Commission shall adopt rules
38 and regulations concerning the meeting schedule and the conduct of meetings of each Job
39 Service Employer Committee. Each Job Service Employer Committee in counties
40 participating in the First Stop Employment Program shall oversee the operation of the
41 First Stop Employment Program in that county and shall report to the local Employment
42 Security Commission quarterly on its recommendations to improve the First Stop
43 Employment Program. The Employment Security Commission shall develop the

1 reporting method and time frame and shall coordinate a full report to be presented to the
2 Joint Legislative Public Assistance Commission by the end of each calendar year.
3 ~~Counties having a Workforce Development Board may designate the Board to perform the duties~~
4 ~~described in this section rather than organizing a Job Service Employer Committee."~~

5 Section 10. G.S. 96-4(t)(1) reads as rewritten:

6 "(t) Confidentiality of Records, Reports, and Information Obtained from Claimants
7 ~~and Employers.~~ Claimants, Employers, and Units of Government.

8 (1) Confidentiality of Information Contained in Records and Reports. – (i)
9 Except as hereinafter otherwise provided, it shall be unlawful for any
10 person to obtain, disclose, or use, or to authorize or permit the use of
11 any information which is obtained from any employing ~~unit or individual~~
12 unit, individual, or unit of government pursuant to the administration of
13 ~~this Chapter.~~ Chapter or G.S. 108A-29. (ii) Any claimant or employer or
14 their legal representatives shall be supplied with information from the
15 records of the Employment Security Commission to the extent
16 necessary for the proper presentation of claims or defenses in any
17 proceeding under this Chapter. Notwithstanding any other provision of
18 law, any claimant may be supplied, subject to restrictions as the
19 Commission may by regulation prescribe, with any information
20 contained in his payment record or on his most recent monetary
21 determination, and any individual, as well as any interested employer,
22 may be supplied with information as to the individual's potential benefit
23 rights from claim records. (iii) Subject to restrictions as the Commission
24 may by regulation provide, information from the records of the
25 Employment Security Commission may be made available to any
26 agency or public official for any purpose for which disclosure is
27 required by statute or regulation. (iv) The Commission may, in its sole
28 discretion, permit the use of information in its possession by public
29 officials in the performance of their public duties. (v) The Commission
30 shall release the payment and the amount of unemployment
31 compensation benefits upon receipt of a subpoena in a proceeding
32 involving child support. (vi) The Commission shall furnish to the State
33 Controller any information the State Controller needs to prepare and
34 publish a comprehensive annual financial report of the State or to track
35 debtors of the State."

36 Section 11. G.S. 96-12(b)(4) reads as rewritten:

37 "(4) Qualifying Wages for Second Benefit Year. – An individual whose prior
38 benefit year has expired and who files a new benefit claim is not entitled
39 to benefits unless the individual has been paid qualifying wages since
40 the beginning date of the prior benefit year and before the date the new
41 benefit claim was filed equal to at least ~~10 times the individual's weekly~~
42 ~~benefit amount under the new benefit claim.~~ six times the average weekly
43 insured wage, obtained in accordance with G.S. 96-8(22), and has been

1 paid wages in at least two quarters of the individual's base period.
2 "Qualifying wages"are wages earned with an employer subject to the
3 provisions of this Chapter or some other state employment security law
4 or in federal service as defined in 5 U.S.C. Chapter 85."

5 Section 12. Sections 3, 7, and 11 of this act become effective July 1, 1999,
6 with Sections 7 and 11 applying to unemployment insurance claims filed on or after that
7 date. The remainder of this act is effective when it becomes law.